

MINUTES

OF THE

NATURAL RESOURCE COMMISSION

MEETING

DECEMBER 8, 2005

WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA

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MEETING MINUTES

CALL TO ORDER

The meeting of the Natural Resource Commission was called to order by Vice-Chairperson Joan Schneider at 8:53 a.m. on Thursday, December 8, 2005 at the Wallace State Office Building, Des Moines, Iowa.

MEMBERS PRESENT

Joan Schneider
Janice Marcantonio (by phone until 9:30)
Lennis Moore (by phone)
Randy Duncan
Kim Francisco
Liz Garst (arrived at 9:15)

APPROVE MINUTES

Motion was made by Commissioner Duncan to approve the November 10, 2005 NRC minutes. Seconded by Commissioner Francisco. Motion carried unanimously.

MINUTES APPROVED

APPROVE AGENDA

<i>Motion was made by Commissioner Duncan to approve the December 8, 2005 NRC agenda. Seconded by Commissioner Francisco . Motion carried unanimously.</i>

AGENDA APPROVED

DIRECTOR'S REMARKS

Director Vonk reported that a lawsuit has been filed against the Commission regarding the action they took on the Petition for Rulemaking to add the cougar to the state's list of endangered and threatened species. At their June meeting, the commission directed staff to pursue protection for the cougar by developing a legislative proposal to add the cougar to the state's list of furbearing animals. Director Vonk said that Michael Smith has begun the process of representing the commission on this lawsuit.

CONSTRUCTION PROJECTS

Linda Hanson, Administrator, Management Services Division, presented the following item.

Bids were opened November 16, 2005 for the following project:

Lake Darling State Park, Washington Co. – Wastewater System Improvements

This project consists of the construction of new wastewater treatment equipment and associated structures for the office/building complex, located at the Park entrance, and for the beach/campground complex within the Park. Included in the treatment equipment are new septic tanks, package submersible pumping stations, and a recirculating sand filter. Also included are site piping (pressure and gravity), valving, site electrical and process electrical work. All other incidental work as required by the Drawings, the Plans and the DNR Construction Inspector. Project is budgeted 50% LAWCON and 50% REAP Open Spaces funds. Stanley Consultants' 2004 estimate is \$600,000. Forty-two sets of plans were requested. Five bids were received.

C. L. Carroll Co, Inc.	Des Moines, IA	\$ 768,652.00
DeLong-Keith Construction, Inc.	Washington, IA	\$ 812,753.90
TAB Construction, Inc.	Rock Island, IL	\$ 839,366.50
Drish Construction, Inc.	Brighton, IA	\$ 847,955.25
K. M. King, Inc.	Burlington, IA	\$ 851,802.20

Staff recommends award of contract to C. L. Carroll Co., Inc., low bidder.

Motion was made by Commissioner Duncan to approve the low bid of C.L. Carroll Co., Inc. of Des Moines, Iowa, in the amount of \$768,652.00 for wastewater system improvements at Lake Darling State Park. Seconded by Commissioner Francisco. Motion carried.

CONSTRUCTION PROJECT APPROVED

Bids were opened November 22, 2005 for the following project:

Banner WMA, Warren Co. – Shooting Range Reconstruction

This project consists of the replacement of existing shooting tubes with a new style of shooting station that will reduce noise levels, increasing the number of stations from 11 to 20 and allow shooters a more pleasant experience. Other improvements are the addition of a range control building for operation by a concessionaire, enhanced site geometrics to allow a safer more structured access to the range, and incidental work as required by the Plans and the DNR Construction Inspector. Project is budgeted in Fish and Wildlife Trust Funds. DNR estimate is \$342,000. Twenty-six sets of plans were requested. Four bids were received.

C. L. Carroll Company, Inc.	Des Moines, IA	\$ 543,737.20
Bergstrom Construction, Inc.	Des Moines, IA	\$ 567,289.50
Betts & Beer Construction Co., Inc.	Adair, IA	\$ 677,110.00
Herberger Construction Co., Inc.	Indianola, IA	\$ 682,010.00

Staff recommends rejection of all bids and re-bid at a later date.

Motion was made by Commissioner Francisco to reject all bids for the shooting range reconstruction at Banner WMA and re-bid at a later date. Seconded by Commissioner Francisco. Motion carried unanimously.

BIDS REJECTED

LAND ACQUISITION

Linda Hanson, Administrator, Management Services Division, presented the following item.

Barringer Slough, Clay County--Swan

The Natural Resource Commission's approval is requested to purchase a permanent flowage easement across land adjacent to the southwest side of Barringer Slough in Clay County. This easement shall serve as temporary storage during times of high water. The flowage easement reflects an area of approximately 11 acres lying below an elevation of 1350 feet above mean sea level. Robert and Mary Lynn Swan offer this easement for \$5,500.

Jerry Gibson prepared the compensation estimate and negotiated the option for easement in compliance with Title 49 CFR Part 24 which allows the negotiator to appraise and negotiate the same parcel up to a value of \$10,000.

This property is located approximately 2 miles west and one mile north of Ruthven, Iowa adjacent to the southwest side of the Barringer Slough. This tract consists of 11 acres of level to gently sloping cropland. During extreme precipitation, water may pond onto the Swan land to an elevation not to exceed 1350 feet above mean sea level.

This easement will be monitored by the Wildlife Bureau in accord with the area management plan.

Acquisition funding will be provided by the Fish and Wildlife Trust Fund. No survey or fencing costs is anticipated. Incidental closing costs will be the responsibility of the Department.

Motion was made by Commissioner Duncan to approve the purchase of an 11 acre permanent flowage easement across land adjacent to Barringer Slough in Clay County from Robert and Mary Lynn Swan for the price of \$5,500. Seconded by Commissioner Francisco. Motion carried unanimously.

EASEMENT PURCHASE APPROVED

Commissioner Garst arrived at this point and was present for the remainder of the meeting.

Ryan Lake Wildlife Management Area, Emmet County--Paulson

The Natural Resource Commission's approval is requested for the acquisition of a tract of land located in Emmet County adjacent to the Ryan Lake Wildlife Management Area approximately 4

miles east and 3 miles south of Estherville, Iowa. The subject tract is offered by Barry and Teresa Paulson for the appraised price of \$48,000.

Donald P. Kearns, Licensed Appraiser, of Smith Land Service Co., Atlantic, Iowa, submitted the appraisal. Jerry Gibson negotiated the purchase agreement.

The tract consists of 32 acres of recreational land; 14 acres of pasture, 7 acres of light timber, 7 acres of marsh/wetlands, and 4 acres of CRP. The DNR agrees to comply with the CRP contract, but no payments have been reserved by sellers. Existing wetlands and developed uplands will provide excellent habitat for waterfowl and upland game. Access to the tract is via easement across the SE¼NW¼ of Section 34, T99N, R33 West in Emmet County.

Iowa Glaciated Wetlands-NAWCA funding will be used to acquire the parcel. Incidental closing costs will be the responsibility of the Department.

Motion was made by Commissioner Francisco to approve the acquisition of a tract of land adjacent to the Ryan Lake Wildlife Management Area in Emmet County from Barry and Teresa Paulson for the appraised price of \$48,000. Seconded by Commissioner Duncan. Motion carried unanimously.

LAND ACQUISITION APPROVED

Cedar Rock, Buchanan County--Cannon

The Natural Resource Commission's approval is requested for the acquisition of a tract of land located in Buchanan County adjacent to the Wapsipinicon River just west of the town of Quasqueton. This approximately 5-acre tract is offered by John and Betty Cannon for \$4,285.

Jerry Gibson prepared the compensation estimate and negotiated the purchase agreement in compliance with Title 49 CFR Part 24 which allows the negotiator to appraise and negotiate the same parcel up to a value of \$10,000.

The subject tract consists of approximately 5 acres of timber adjacent to the Wapsipinicon River and Cedar Rock. The acquisition would increase the shoreline footage along an area of the river designated as a Protected Waters Area, and eliminate boundary issues that now exist. The increased access to the river would allow use by anglers and canoeists.

REAP-PWA funding will be used to acquire the parcel. Surveying and incidental closing costs will be the responsibility of the Department.

Motion was made by Commissioner Duncan to approve the acquisition of approximately five acres of land located adjacent to the Wapsipinicon River just west of the town of Quasqueton in Buchanan County from John and Betty Cannon for \$4,285.00. Seconded by Commissioner Garst. Motion carried unanimously.

LAND ACQUISITION APPROVED

Diamond Lake, Dickinson County--Mayou

The Natural Resource Commission's approval is requested to purchase a temporary easement for construction and a permanent easement under and across land adjacent to the southwest side of Diamond Lake in Dickinson County. The easements will allow for the installation of non-perforated tile to draw down, by gravity, the 166-acre Diamond Lake. Michael and Anita Mayou have agreed to sell the right to construct and maintain the tile line under a 50 foot temporary easement for construction, and a 24 foot permanent easement for the value of \$24,900.

Jerry Gibson negotiated the option for easement in compliance with Title 49 CFR Part 24 which allows the negotiator to negotiate without an appraisal from a value of \$10,000 to \$25,000 with the landowners waiving an appraisal.

Diamond Lake is located 2 miles west and 3 miles north of Spirit Lake. The 50-foot temporary easement and 24-foot permanent easement will be approximately 2000 feet long. The Diamond Lake complex is a combination of 286 acres of wetland/shallow lake with 813 acres of diverse uplands that consist of native prairie, introduced grasses, woodland, and cropland. The complex is managed for upland game and migratory waterfowl production. Diamond Lake is a 166-acre naturally glaciated lake in the Prairie Pothole Region of Iowa that is completely buffered by DNR and FWS property. Intense tillage agriculture surrounding the complex has led to widespread wetland drainage. Diamond Lake is a glaciated lake with a dishpan bottom. This type of topography does not provide a quality outlet for a re-vegetative draw down. With no outlet this shallow lake/marsh has become stagnant with very limited sub-emergent or emergent wetland vegetation. This project will provide a quality outlet that will help restore 66 acres of wetland vegetation which will improve migratory habitat and production. Without the easement the only other alternative is a more expensive draw down using pumps.

This easement will be monitored by the Wildlife Bureau in accord with the area management plan.

Lake Restoration funding will be used to acquire the easements. No survey or fencing costs are anticipated. Incidental closing costs will be the responsibility of the Department.

Motion was made by Commissioner Duncan to approve the purchase of a 50 foot temporary easement and a 24 foot permanent easement at Diamond Lake in Dickinson County from Michael and Anita Mayou for the price of \$24,000. Seconded by Commissioner Francisco. Motion carried unanimously.

EASEMENTS APPROVED**MEETING DATES AND LOCATIONS FOR 2006**

Linda Hanson, Administrator, Management Services Division, presented the following item.

Listed below are the dates for the Natural Resource Commission meetings for 2006. The meetings are scheduled for the second Thursday of the month. Generally there is no regular

meeting in January or July, but a telephone meeting may be held if necessary. There will be a tour on the Wednesday afternoon before the meeting when the meeting is held outside of Des Moines.

January 18	-	Des Moines (following Legislative Breakfast)
February 9	-	Des Moines (Summerset State Park/Banner Lakes)
March 9	-	Honey Creek, Rathbun (tour Destination Park and update)
April 13	-	No Meeting
May 11	-	Waubonsie/WaShawtee (coincide with ribbon cutting event)
June 8	-	Whiterock Conservancy (tour Whiterock and local REAP projects)
July 13	-	No Meeting
August 10	-	Kent Park (Tour of Indiangrass Hills easement)
September 14	-	Loess Hills
October 12	-	Dubuque
November 9	-	Des Moines
December 14	-	Des Moines

Meeting dates and locations were reviewed and discussed. A request was made to switch the locations of the August and September meetings, as listed above.

Motion was made by Commissioner Duncan to approve the meeting dates and locations for NRC meetings in 2006 as amended. Seconded by Commissioner Francisco. Motion carried unanimously.

MEET DATES AND LOCATIONS APPROVED

MANAGEMENT AGREEMENT WITH U.S. FISH AND WILDLIFE SERVICE – PINE CREEK, CLAYTON COUNTY

Ken Herring, Administrator, Conservation and Recreation Division, presented the following item.

The Natural Resource Commission is requested to authorize the director to execute a management agreement between the U.S. Fish and Wildlife Service Driftless Area National Wildlife Refuge and the DNR. The DNR and the Service have determined that it is in the public interest to transfer management of state-owned property in Clayton County to the Driftless Area National Wildlife Refuge.

The property consists of about 49 acres and is adjacent to the 140 acre Pine Creek Unit of the Driftless Area National Wildlife Refuge. The DNR property was purchased with funds from Section 6 of the Endangered Species Act and a donation from the Iowa Natural Heritage Foundation to provide additional protection for a population of northern monkshood on the Refuge.

The state land will be open to public hunting, fishing, wildlife observation, and photography according to the Refuge regulations. The Refuge regulations require the following:

- nontoxic shot for upland game birds and small game
- open to hunting from November 1 to January 15 or the close of the state hunting seasons, whichever comes first
- archery and muzzleloader only for white-tailed deer

The management agreement is perpetual with provisions for termination by either party with 90 days notice and for modification of the agreement with approval by both parties.

Motion was made by Commissioner Francisco to authorize the director to execute a management agreement between the U.S. Fish and Wildlife Service Driftless Area National Wildlife Refuge and the DNR. Seconded by Commissioner Duncan. Motion carried unanimously.

AGREEMENT APPROVED

Commissioner Marcantonio was absent from the meeting from this point on.

COOPERATIVE AGREEMENT WITH DUCKS UNLIMITED

Ken Herring, Administrator, Conservation and Recreation Division, presented the following item.

The Commission is asked to approve a cooperative agreement between the state of Iowa, Department of Natural Resources and Ducks Unlimited, Inc. This agreement is for cost-share funding in support of Prairie Habitat Joint Venture activities in Saskatchewan, Canada.

AGREEMENT

WHEREAS, this Agreement is made and entered into this Ninth day of December, 2005, by and between the state of Iowa, Department of Natural Resources (hereinafter referred to as "the Department"), and Ducks Unlimited, Inc., a nonprofit membership organization incorporated under the laws of the District of Columbia (hereinafter referred to as "DU"), and

WHEREAS, the Department is acting under the authority of the Code of Iowa, Chapter 110B, in entering into this Agreement, and

WHEREAS, DU is dedicated to the increase and production of waterfowl in Canada by the development, preservation, restoration, construction, maintenance and repair of projects to provide the most advantageous habitat for reproduction, and

WHEREAS, they are developing a number of such projects in the Province of Saskatchewan, Canada, and

WHEREAS, the necessary assurances have been obtained as set forth in Section 110B.5 of the Code of Iowa, and

WHEREAS, the Department finds it necessary to enter into this Agreement in order to carry out the purpose of said Chapter 110B, and

WHEREAS, the projected receipts from the sale of state migratory waterfowl stamps in 2005 are estimated at Two Hundred Forty-Nine Thousand, Five Hundred and Forty-Three Dollars (\$249,543.00)

and the 2004 estimate was One Thousand, Nine Hundred and Thirty-Eight Dollars (\$1,938.00) lower than actual sales, the contribution for 2005 will be Thirty-Seven Thousand, Seven Hundred and Twenty-Two Dollars (\$37,722.00).

NOW THEREFORE, be it agreed that:

1. DU will furnish the Department a detailed report and plan for the expenditure of the state's contribution.
2. The entire state contribution will be used for development of the Rokeby project (hereinafter referred to as "Project") and no funds will be used for office, overhead or other expenses.
3. The Department will pay DU, the sum of Thirty-Seven Thousand, Seven Hundred and Twenty-Two Dollars (\$37,722.00) for this project.
4. This Agreement becomes null and void and DU will refund the entire Thirty-Seven Thousand, Seven Hundred and Twenty-Two Dollars (\$37,722.00) if any funds are used contrary to this Agreement.

IN WITNESS THEREOF, this Agreement is executed and witnessed by authorized representatives of the Iowa Department of Natural Resources and Ducks Unlimited, Inc.

Witnessed by:

DEPARTMENT OF NATURAL RESOURCES

BY: _____
TITLE: _____

Witnessed by:

DUCKS UNLIMITED, INC.

BY: _____
TITLE: _____

Motion was made by Commissioner Garst to approve a cooperative agreement between the state of Iowa, Department of Natural Resources and Ducks Unlimited, Inc. for cost-share funding in support of Prairie Habitat Joint Venture activities in Saskatchewan, Canada. Seconded by Commissioner Francisco. Motion carried unanimously.

DU AGREEMENT APPROVED

CONSERVATION AND RECREATION DONATIONS

Ken Herring, Administrator, Conservation and Recreation Division, presented the following item.

The Natural Resource Commission is asked to approve the following donations:

Parks Bureau

J. R. Rosenberger donated a park bench valued at \$460.00 to be located at the main boat ramp in Lake Macbride State Park. The bench is a memorial to Dean Carson and Tom Murch

Yvonne Paulson donated a bench valued at \$200.00 for use at the Taylors Picnic Area in Brushy Creek Recreation Area. The bench is a memorial to John Paulson.

Colleen Craven donated \$213.76 to help create a rocked trail which can be used during wet conditions at Brushy Creek Recreation Area. The donation is in memory of Dewayne Craven.

Lake Park & Holding Corp donated \$382.72 towards the purchase of an AED unit for Union Grove State Park.

Cornman Triathlon, Todd Eipperle Director donated \$2000.00 towards the purchase of an AED unit, boat and GPS receiver for the Union Grove State Park.

Wildlife Bureau

The family of Elsie Fehr donated \$188.00 per her request.

Carl Foley and his crew removed 2 large dead bur oak trees at the DeWitt boat landing. He also donated 25 two to three ton barricade stones for the Lost Grove Lake Wildlife Area, Utica Ridge road parking lot. His total donation of labor and materials was valued at \$2818.00.

Terry Biledo and the RiverStone Group donated 20 ton of large multi ton barricade stone for the new Utica Ridge public parking lot located on the Lost Grove Lake Wildlife area. The value of the donation was \$607.00.

Tom Conry of Peregrin Productions donated the artwork for the new Wildlife Diversity program logo. The DNR staff valued the donation at \$250.00.

Motion was made by Commissioner Francisco to approve the Conservation and Recreation donations. Seconded by Commissioner Duncan. Motion carried unanimously.

DONATIONS APPROVED

STATE LAND TIMBER HARVEST REVIEW PROCESS

Ken Herring, Administrator, Conservation and Recreation Division, presented the following item.

The Conservation and Recreation Division is refining the procedures for Division review and public notice regarding timber harvest on state forests and game management areas.

Back in the mid-1990's the Division developed a document titled, *Forest Ecosystem Management Guide*. The goal of this document was to develop guiding principles for managing all State-owned forest lands. In addition to these guiding principles, forest ecosystem management issues and goals for the different state forested lands are discussed. This guide was reviewed and approved by the Iowa Natural Resource Commission at its December 1994 meeting.

Our current process for evaluating potential timber harvests is based on the guidelines and management issues expressed within the *Forest Ecosystem Management Guide*. The process begins when the Area Manager identifies a site that is in need of a harvest. The proposed harvest areas are identified and sent to Division specialists, DNR State Ecologist, John Pearson, Zoologist, Daryl Howell or Botanist, Mark Leoschke. These three experts review the proposals and decide which of the three should conduct the site visits. We conduct site reviews both Spring and Summer for endangered and threatened species or unique habitats. An internal checklist is completed to assure that pertinent environmental assessments are conducted and the results incorporated into the harvest plan. If on-site reviews raise any issues, other DNR experts are consulted as needed. However, the Division realizes that there is room for improvement in the process, particularly in providing ample time for public input. In order to address our desire to expand the input from internal experts and to allow for additional public involvement, we are proposing the following procedure.

Planned potential timber harvest sites will be identified 1-2 years prior to harvest. Goals for the harvest, type of harvest, approximate acres affected, pre and post harvest treatments, and location will be posted on the DNR Forestry website for anyone to view. We propose developing an annual news release and the development of a listserv that identifies the potential harvests that year and directs interested parties to the DNR website. This website is already extremely popular and once the public is informed of this additional information that will be available, it should provide an excellent method for collecting public input. By March of each year, any member of the public will be able to check the DNR website to view proposed timber harvest areas and plans. Public comments will be reviewed and assessed for possible incorporation into the final harvest plan.

Once the timber sales have been marked, bid notices will go out to all bonded timber buyers and any other interested parties that have requested hard copies of the notice mailed to them. The bid notice will also be posted on the website with maps for anyone interested in visiting the site once the sale has been marked. In event of a natural disaster where damaged trees need to be salvaged in a timely fashion, the sale will be noted only with the bid notice process.

Additionally, all proposed harvest information will be distributed to Wildlife, Forestry, and Fisheries Bureau Chiefs for them to disseminate to staff experts for possible review and comment. The harvest checklist currently used by Forestry (see the attached example) is in the process of being reviewed and developed as a Department-wide checklist.

As long-term management plans are prepared for forest and wildlife lands, these plans will be posted to the website as well so that anyone interested can view and comment on the management goals, objectives and treatments for a forest or wildlife unit. Internal DNR input and public hearings concerning the long-term management plans will be scheduled as forest plans near draft completion. The preliminary schedule for the forest management plan development is to have a draft out in January for internal review and comment with the draft out for public comment in the summer of 2006.

John Walkowiak reviewed the current procedures and explained new procedures being implemented in regard to planned potential tree harvest. The new procedures provide for not only internal review but also external review. Potential harvest information will be posted on DNR's website and information will be distributed to all bonded timber buyers and any other interested parties.

INFORMATION ITEM

MINES OF SPAIN 28E AGREEMENT

Ken Herring, Administrator, Conservation and Recreation Division, presented the following item.

A strong and active nonprofit organization, the Friends of Mines of Spain have been working diligently for the past few years planning and designing an addition to E.B. Lyons Interpretive Center. Estimated cost of the 6,300 square foot addition is \$1.4 million. The original nature center was constructed by the city of Dubuque. When the then Iowa Conservation Commission (ICC) acquired the Mines of Spain State Recreation Area in the early 1980s, the ICC assumed management of the E.B. Lyons Nature Center under a long-term management agreement.

The Friends of Mines of Spain contracted with the architectural and engineering firm who designed the current nature center so that the addition is true to the original design intent of the building. On the upper level, this addition will provide much needed space for large gatherings with kitchenette, universally accessible restrooms, and space for office relocation. The current office space will be utilized for additional interpretive displays and a library. The lower walkout level will contain a biology lab/classroom, storage area, prep area for exhibit fabrication and archival storage.

The Friends of Mines of Spain is responsible for raising all of the funds necessary for the construction of the addition. The DNR is responsible for contract bidding, construction inspection, parking lot expansion, septic system upgrade and well replacement.

This 28E agreement is between the Department of Natural Resources and the Friends of Mines of Spain to identify the respective roles and responsibilities through the completion of this project. The Commission is requested to authorize the director to sign the 28E agreement with the Friends of Mines of Spain.

**Preparer: Michael H. Smith, Assistant Attorney General, PH: 515-281-5263; FAX: 515-242-6072
IOWA DEPARTMENT OF JUSTICE, Lucas Building, Room 018, Des Moines, IA 50319**

Iowa Department of Natural Resources – Friends of the Mines of Spain 28E AGREEMENT

I. PARTIES. This 28 E agreement is between two parties: **Friends of the Mines of Spain (FMS)**, an Iowa nonprofit corporation; and the **Iowa Department of Natural Resources (DNR)**.

II. PURPOSE. This agreement sets forth the mutual understandings and commitments of the parties to provide for the construction of an addition to the E.B. Lyons Interpretive Center, part of the Mines of Spain State Recreation Area in Dubuque, Iowa. The current design includes an Addition consisting of 6,300 square feet, estimated at \$226.55/sf for a total cost of \$1,427,299.00.

III. AUTHORITY. The parties enter this agreement under the authority of Iowa Code sections 28E.4 and 461A.25 (2005).

IV. FINANCING. The FMS is assembling a combination of funding sources for the design and engineering for the eventual construction of an Addition to the E.B. Lyons Interpretive Center. The FMS will be responsible for all funds necessary for design and construction of this Addition. Funds obtained from other sources through the DNR may become part of the total funds raised and contributed towards the project; i.e., donations, grants, etc. The estimated in-kind value of the DNR effort is at least \$200,000 or 20% of the total cost, whichever is greater. Both parties may use each other's contribution as a match for granting opportunities towards this project.

V. PLANS AND SPECIFICATIONS. The FMS shall provide to the DNR for approval, a set of plans and specifications prepared by a licensed engineer/architect for the construction of the Addition to the E.B. Lyons Interpretive Center. The two groups shall share in design/layout ideas, both to the other's satisfaction. Approval by the DNR shall not unreasonably be withheld.

VI. CONSTRUCTION. The DNR shall be responsible for the bid letting and construction inspection of all of project components. Melvin Pacovsky (or his designee) will be the DNR construction inspector and will be the project site and construction manager for the DNR. It is the desire of the FMS to possibly utilize donated material and services if they meet the specifications and quality of the bid items or services. If the donation meets the specifications and requirements of the bid, every attempt will be made to use the donated material or service. This may be difficult to incorporate into the construction process for accountability and warranty issues for the prime contractor. DNR will have final determination if a donation meets the requirements for the material or service needed and if it can be accepted.

The DNR will contribute funds for the parking lot expansion, septic system upgrade, and well replacement that are necessary due to construction of the Addition. The DNR's financial contribution for the septic system and well may be used for connection to municipal sewer and water services provided by the City of Dubuque if determined to be financially feasible.

VII. ROLES AND RESPONSIBILITIES. Once the necessary funds are raised, the DNR will disburse the funds for the project and be responsible for the actual construction of the Addition, by using those funds and any other resources available. DNR will be responsible for all oversight of the construction. After DNR approval of the plans and specifications as stated in section V, any change orders due to construction document ambiguity will be the responsibility of the FMS. Any change orders due to DNR's request to the desire for upgraded materials will be the responsibility of the DNR. An accounting of the disbursement of the fund will be provided to the FMS for their files to meet federal regulation of the organization.

The DNR shall be responsible for plan approval, bid letting and construction of the Addition. The FMS is responsible for \$1,427,299 or the final bid amount plus a 10% contingency for this project through various sources. A prime and alternate contact for FMS will be identified by them at the time of the project commencement. The DNR will contribute any funds obtained through grants for this project. The DNR will be responsible for any administration of grants received by the DNR. The project will not be

bid until the DNR receives the funds for the total amount based on a firm engineering estimate and a minimum 10 % contingency.

It is agreed that the FMS may monitor construction progress and comment as appropriate to the DNR. The DNR agrees to take comments from the FMS into consideration as construction proceeds.

VIII. PROCEDURE FOR MODIFICATIONS. The DNR shall promptly request the approval from the FMS for any substantial modification of design, scale, construction technique or materials provided in the plans and specifications. Any additional expenditure due to change orders must be approved by the FMS. Financial responsibility for the modification will be either the DNR or FMS as described in section VII. Approval by the FMS shall not unreasonably be withheld. Communications and dispute resolution shall be as provided in Sections XI and XII of this agreement.

IX. UPON CONSTRUCTION COMPLETION. Once constructed, the DNR will be responsible for administration/management and operational expenses, similar to what it does now with the current center. Any left over funds from the project, including unused contingency funds, will be refunded to the FMS to use for displays or any improvements to the addition.

X. COMMUNICATION. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To DNR:

Iowa Department of Natural Resources
Des Moines IA
Attention:
Phone: 515.

To FMS:

Friends of the Mines of Spain
Dubuque IA
Attn: President
Phone 563.

XI. ADVISORY TEAM. The parties agree an Advisory Team should be created to facilitate inter-party communication and resolve disputes concerning construction of the facility. The Advisory Team shall include the park ranger, the district park supervisor and two persons appointed by the FMS. The Advisory Team shall meet and otherwise communicate as needed in order to approve change orders in the construction of the facility.

XII. DISPUTE RESOLUTION; MEDIATION. In the event of any dispute arising under this agreement, the parties shall request a report from the Advisory Team, which need not be unanimous. The parties shall use their best efforts to resolve the dispute without resort to litigation. Before any party files a lawsuit against another party to this agreement, the parties shall obtain the services of a qualified mediator and participate in mediation. Costs of mediation shall be divided equally between the FMS and the DNR.

XIII. FILING, EFFECTIVE DATE, AMENDMENT AND DURATION. This 28E agreement shall be effective when executed by authorized representatives of the parties and filed with the Dubuque County Recorder and Iowa Secretary of State as required by Iowa Code section 28E.8. The DNR shall

be responsible for filing this agreement with the Dubuque County Recorder and the Secretary of State. This agreement may be amended from time to time by either the DNR or the FMS with the mutual consent of the other party. This agreement shall expire after completion of construction of the addition to the E.B. Lyons Interpretive Center, unless its duration is extended or reduced by a duly recorded amendment.

FRIENDS OF THE MINES OF SPAIN by:

Douglas G. Olk, M.D., President

IOWA DEPARTMENT OF NATURAL RESOURCES by:

Jeffrey R. Vonk, Director

STATE OF IOWA, DUBUQUE COUNTY, ss: On this _____ day of _____, 2005, before me the undersigned, a Notary Public for said State, personally appeared Douglas G. Olk, M.D., to me personally known, who stated that he is the President of Friends the Mines of Spain, that no seal has been procured by said corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and that as such officer, he acknowledged that he executed the foregoing instrument as his voluntary act and the voluntary act of the corporation.

NOTARY PUBLIC for the State of Iowa

STATE OF IOWA, POLK COUNTY, ss: On the _____ day of _____, 2005, before me, a Notary Public for said State, personally appeared Liz Christiansen, who stated that she is the duly appointed and actively serving Deputy Director of the Iowa Department of Natural Resources and that she executed the foregoing instrument as her voluntary act and as the voluntary act of the Iowa Department of Natural Resources.

NOTARY PUBLIC for the State of Iowa

Public Participation – Daniel P. Ernst

Daniel Ernst, Dubuque, Iowa, spoke regarding the Mines of Spain. He talked about the history of the area and the future plans for the E.B. Lyons interpretive expansion project. He noted the various partners involved in the promotion of the Mines of Spain and discussed fund raising issues.

Motion was made by Commissioner Duncan to authorize the Director to sign a 28E agreement with the Friends of Mines of Spain to identify the respective roles and responsibilities through the completion of the project. Seconded by Commissioner Francisco. Motion carried unanimously.

AGREEMENT APPROVED

RIVER OTTER AND BOBCAT POPULATION STATUS

Ken Herring, Administrator, Conservation and Recreation Division, presented the following item.

River otters were re-introduced into Iowa by the DNR beginning in 1985. Since then populations have spread to inhabit virtually all the watersheds of the state. Bobcats have spread into Iowa on their own from surrounding states and have spread throughout the south and western portions of Iowa. Both species now have populations that can sustain controlled trapping seasons. DNR biologist Ron Andrews will present information on proposed trapping seasons for both species prior to asking for public comment on these issues.

Terry Little, Wildlife Supervisor, stated that in order to be more proactive in obtaining comments and public awareness, the wildlife bureau is changing their rulemaking process by first presenting informational items on new rules before proceeding with a notice of intended action.

Ron Andrews, Furbearer Resource Specialist, presented some history regarding the bobcat and river otter. He reviewed the initial suggested bobcat harvest (hunting and trapping) management parameters. Mr. Andrews said the population modeling of Iowa bobcats indicates their population is growing about 7% annually. This indicates that harvest of 200 animals will still allow considerable population growth. A conservative season is recommended during the first few years with a zone wide quota of 200 animals and a season bag limit of one.

Mr. Andrews indicated a streamlined protocol to establish a river otter harvest season will be available by January 1, 2006. He reviewed that conservative seasons will occur during the first years with only a portion of the state open to trapping the first year. There will be a trapping harvest quota of 300 river otters in the area of the state that is open with a season bag limit of two river otters per trapper.

Discussion continued regarding furbearer rules and individual questions were answered. Director Vonk emphasized that the best science available will be used in determining the dates and regulations for these animals.

INFORMATION ITEM

NOTICE OF INTENDED ACTION—CHAPTER 40, BOATING SPEED AND DISTANCE ZONING

Ken Herring, Administrator, Conservation and Recreation Division, presented the following item.

The Commission is asked to approve the notice to amend Chapter 40, “Boating Speed & Distance Zoning” Iowa Administrative Code. This amendment includes two proposed new rules.

The department has been petitioned by the Dubuque County Conservation Board and the US Fish & Wildlife Service to establish a “no-wake” zone at Mud Lake on the Mississippi River in Dubuque County.

The department has been petitioned by the East Okoboji Lakes Improvement Corporation to establish a sunset to sunrise speed limit for vessels operating on certain lakes in Dickinson County.

NATURAL RESOURCE COMMISSION [571]
Notice of Intended Action

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resources Commission hereby gives Notice of Intended Action to amend Chapter 40, "Boating Speed and Distance Zoning," Iowa Administrative Code.

The Department has been petitioned by the Dubuque County Conservation Board and the US Fish & Wildlife Service to draft a rule, which will establish a “no-wake” zone in a portion of a backwater area known as Mud Lake on the Mississippi River in Dubuque County. The Dubuque County Conservation Board will be responsible for placement of buoy markers to designate the zoned area. This request is being made in an effort to reduce the negative impacts of large vessels operated at higher speeds and resulting shoreline erosion, excessive noise levels, and protect the integrity of the Mud Lake area.

The Department has been petitioned by the East Okoboji Lakes Improvement Corporation for rulemaking which would establish a speed limit for vessels on certain Dickinson County lakes between the hours of sunset and sunrise. This is a boating safety issue which concerns limited sight visibility during night-time hours as having a direct effect on a boat operator's ability to recognize and avoid potential hazards.

Any interested person may make written suggestions or comments on the proposed amendment on or before January 24, 2006. Such written materials should be directed to the Law Enforcement Bureau, Department of Natural Resources, Wallace State Office Building, and Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Law Enforcement Bureau at (515)281-4515.

There will be public hearings as follows: 7:00 P.M. on Tuesday January 17 at the Arnolds Park City Hall, 156 Highway 71, Arnolds Park, Iowa and at 11:00 A.M. on Tuesday January 24 in the Fifth Floor West Conference Room of the Wallace State Office Building, Des Moines, Iowa at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the amendment.

Any persons who intend to attend a public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code section 456A.24.

The following amendment is proposed.

Amend 571—Chapter 40 by adopting the following new rules:
571--40.52(462A) Nighttime Speed Limit, Dickinson County. No vessels, except authorized emergency vessels, shall be operated at speeds greater than twenty five miles per hour at any

time between the hours of one-half hour after sunset and sunrise on all lakes located in Dickinson County.

571—40.53(462A) Zoning of the Mississippi River, Mud Lake, Dubuque County.

All vessels shall be operated at a no-wake speed within the area of river mile markers 587.6 to 589.3, in a backwater known as Mud Lake and designated by marker buoys approved by the Natural Resource Commission.

Date

Jeffrey R. Vonk, Director

Lowell Joslin, Law Enforcement Bureau Chief, presented statistics on boating incidents by time of day, by cause of incidents, and incidents by county and body of water. Mr. Joslin explained that the Petition for Rulemaking by the East Okoboji Lakes Improvement Corporation asked that a 30 mph speed limit be established from sunset to sunrise on certain lakes in Dickinson County. The rule being proposed establishes a 25 mph speed limit from one-half hour after sunset and sunrise on all lakes located in Dickinson County.

Director Vonk checked with the department's legal bureau as to whether this rule would satisfy legally, action on the Petition for Rulemaking. It was later determined that the Petition can be addressed by the rulemaking procedure.

There was discussion regarding the nighttime speed limit and the correlation of speed to the noise issue. Commissioners Schneider and Duncan both said they feel the general population in Dickinson County is in favor of a nighttime speed limit.

Commissioner Garst questioned that if speed limits were hard to enforce before this rule, how would officers be able to enforce a stricter speed limit. Lowell Joslin responded that the most up-to-date equipment will be used for enforcement but also officer discretion is used with regard to enforcement. Following discussion, consensus of the commission was that if the rule is 25 mph, that is what should be enforced, with no discretionary leeway of 5 mph over.

Roll call vote on the rule was as follows: Lennis Moore—Yes; Kim Francisco—Yes; Joan Schneider—Yes; Liz Garst—No; Randy Duncan—Yes. Motion carried on a 4-1 vote.

NOTICE APPROVED

28E AGREEMENTS – HALE BRIDGE AND CASINO BAY

Ken Herring reported that the DNR will be entering into two 28E agreements in the next two weeks.

Hale Bridge

--A local group in Jones County joined together to save a triple span bow string bridge that the county removed.

- They proposed that the 300' bridge be placed to span the Wapsipinicon River joining the south end of Wapsipinicon State Park with the city of Anamosa. They hired an engineering firm to design the concrete limestone abutments and have raised all of the funds necessary to have the bridge relocated.
- The National Guard has agreed to fly the three sections with a twin prop helicopter in March (they cannot fly it in any later in the year as the air becomes too dense with humidity).
- Earlier this year the DNR bought approximately 11 acres on the east side of the river to facilitate this connection to the city.
- The 28 E agreement is between the DNR and the Jones County Board of Supervisors that have agreed to provide all of the necessary financial resources to get the bridge placed in Wapsipinicon State Park.
- They have also agreed to be responsible for maintenance of the bridge for five years.
- There is no financial obligation for the DNR in this agreement.

Casino Bay – Storm Lake

- The DNR is entering into an agreement with the City of Storm Lake to contract with BCDM to prepare a refined concept for the redevelopment of the Casino Bay marina. This will expedite the design and ensure good coordination with the overall Storm Lake oasis development.
- BCDM is currently under contract with the city for the design of their resort development.
- The desire to minimize disruption of the critical lakeside services provided at this marina has created a restricted timeline for the completion of the redevelopment.
- The refined concept will include development of a program for facilities and services; a site plan for efficient functioning of proposed facilities; a detailed architectural concept for the marina concession and boat repair buildings (with an architectural theme consistent with the overall plan) and a refined cost estimate based on the new plan.
- The cost for the concept is \$19,800.

PUBLIC PARTICIPATION—HEATHER STRICKER

Heather Stricker, Chariton, Iowa, representing the Bobcat Research Team, addressed some comments made during discussion on what a bobcat eats and whether they affect the pheasant population. She said their research on stomach content of the bobcat shows that 99% is cottontail rabbits with a few squirrels, and only one or two bird feathers. She said this indicates that the impact on pheasants is low and other literature and research shows it to be about 1%. She said the biggest impact on pheasants is weather and habitat, along with some predators like skunks and raccoons.

GENERAL DISCUSSION

Commissioner Garst talked about the department's Iowa Excellence 2005 Self-Assessment Report. She presented several points that she asked to have discussed at a future meeting.

On page v—there is a comment “the department is allowed to explore revenue-generating opportunities and retain a portion of the money raised.” Commissioner Garst said that a factor affecting the department's success is its ability to leverage resources. She asked for an explanation from staff about their interpretations of the ability to collect money above and beyond direct costs of the department and whether they are availing themselves of this opportunity to explore revenue generating opportunities.

Director Vonk commented that there are many kinds of things where one might think we have the ability or we may have authority to assess the fee for a permit or a service. However, most of the time we do not have the ability to retain that fee as it often automatically goes to the general fund through statutory authority provided.

Commissioner Garst noted a comment on page 6 of the report that the department supports and strengthens key communities by actively promoting participation in professional organizations. The example cited the success with organized groups of hunters and anglers, but not so much success with other non-consumptive recreational sectors such as bird watchers and hikers. Garst suggested the department help these organizations to get more organized or to better plug into the organizations that are already there –like Iowa Bird Listserve..

Page 18 talks about trying to get more customer service feedback on a variety of programs and one good example was of a customer service roundtable for the wastewater treatment program. She said the article goes on to lament that in a lot of other areas of the department there are not such customer service feedback opportunities.

On page 19 of the report there is mention of a variety of statistics the department keeps. Commissioner Garst asked that they be shared with the NRC—such as how are we doing in the increase in donations of land and money to the DNR; increase in the number of conservation easements; increase of public lands and increase in number of agricultural environmental managements implemented in Iowa and what that means; a reduction in the staffing gap and increase in number of bureaus with strategic plans that are used as a basis to measure results. She said it would be good to know how we are doing on things such as number of acres protected as compared to what our new long-terms strategic plan goals are—not only how we are doing but how we are doing as compared to our own articulated goals.

Page 20 references the governor's leadership agenda that has strategic goals that are measured quarterly. It goes on to say that the department really does not find this exercise useful so it is not part of the department's processes. Ms. Garst said it would be interesting to see what the governor is asking us to measure and compare that to what we think would be useful so the process can be fixed.

Ken Herring commented that some of the items mentioned are being handled through the department's strategic planning process and some are part of the Charter Agency process which allows us to be more entrepreneurial. He added that a lot of the information does get shared and some we are planning to do as better customer feedback. He mentioned the rulemaking process for bobcats and otter seasons as well as the customer notification for timber harvests as examples. Mr. Herring vowed that sharing information with the commission is not a problem and noted that while staff is limited time-wise, these issues will be discussed.

Commissioner Garst complimented the department on the Report and having it documented and going through the exercise. She complimented staff on follow-up to questions she asks.

Commissioner Garst asked for the department's list of legislative initiatives for the upcoming legislative session.

Diane Ford-Shivvers reviewed the department's proposed natural resources initiatives.

Amend 483A to increase the number of nonresident hunting licenses.

The Department proposes to amend 483A to increase the number of nonresidents allowed each year to hunt any sex deer and wild turkey. This amendment makes two changes concerning the number of nonresident hunting licenses.

1) Allow for the issuance of 6,000 additional nonresident any sex deer licenses, bringing the total available any sex nonresident licenses to 12,000.

2) Allow for the issuance of 1,000 additional nonresident wild turkey licenses, bringing the total available licenses to 3,300.

Each year the DNR refunds 6,000-plus nonresident any sex deer license application fees, totaling over \$2.5 million. In return, the Department will commit additional funds towards increased public hunting access opportunities.

Amend 481A.130 to strengthen the penalties for illegally taking bobcats and illegally taking sport fish.

The Department proposes to amend 481A.130 to better protect certain fish and wildlife species by making the following changes:

- Establish a fine for illegally taking bobcat at \$200.
- Raise the fine on certain sport fish. Damages of taking fish with an established daily limit of 25 or less is \$50 with these exceptions; paddlefish set at \$500; muskellunge \$500 for 50" or less plus \$100 for each inch over 50".
- Establish a fine of \$50 for illegally taking largemouth and smallmouth bass; walleye; northern pike; channel and flathead catfish; rainbow, brown and brook trout; plus \$50 for each inch over designated size.

The bobcat is currently under the definition of common furbearing game, and the fine (\$50) is not appropriate for this particular species. Values for illegally taken fish are well below those of most of the neighboring states and do not cover the cost of producing sport fish. (Note: this does not include fish kills from pollutants.)

Amend 482 improve regulations for the commercial harvest of fish, mussels and turtle.

The Department proposes to amend 482 to develop better resource management tools and provide certain species better protection by making the following changes:

- Establish separate licenses for commercial fish buyers and commercial turtle buyers, and require records of their purchases from the commercial harvesters.
- Eliminate the designated operator license and require each commercial fisher who operates a crew to purchase an owner's license.
- Establish a commercial fish helper's and a commercial turtle helper's license, in addition to the current commercial mussel harvest helper, and set the cost at \$50 for each license.

- Prohibit nonresidents and aliens from harvesting turtles for either sport or commercial purposes from all inland waters of the state.
- Align residency requirements for commercial fish and turtle harvest with residency requirements for fishing and hunting licenses.
- Increase the boundary water sport trotline license to \$20.00 for residents and \$40.00 for nonresidents (not changed since 1987). The boundary water sport trotline license permits the licensee to use a maximum of four trotlines with up to 200 hooks total on the Mississippi, Missouri, and Big Sioux River.

These changes help maintain accurate harvest records for resource management, bring regulations in line with other states, clean up law enforcement issues, and bring fees in line with inflation and other states.

Amend 462A.12 to require personal flotation devices on boats for children under 13.

The Department proposes to amend 462A.12 to help improve the safety of children while boating. This requires children to wear a personal flotation device on a moving vessel unless the child is in a fully enclosed area or on a commercial excursion boat. Iowa is one of only four states that do not have such a requirement for children. This change is critical to improve child safety, and brings Iowa in line with the rest of the states and federal regulations.

Amend 463C to expand the bonding authority for Honey Creek Destination Park.

The Department proposes to amend 463C to enable DNR and partners to implement the planned destination park. This amendment raises the bonding authority from a cap of \$28 million to \$35 million. When the original legislative language was drafted, the total cost of interest and bond servicing was not included in the bonding authority.

Amend 321I and 805.8B to establish an electronic registration system for resident all-terrain vehicle registration and improve rider safety.

The Department proposes to amend 321I to make it easier for residents to register all-terrain vehicles for use on the state designated riding areas and improve rider safety by making the following changes:

- Establish an electronic registration system for residents, similar to the current nonresident registration system, and improve the process for the registration of used all-terrain vehicles by allowing either the seller or purchaser of an all-terrain vehicle to bring the registration to current status.
- Require adult supervision on state designated riding areas for riders less than sixteen years of age.
- Provide clarification that all-terrain vehicle operation by adjacent land owners on public right-of-way areas requires operators meet the safety and registration requirements of the chapter.
- Establish repeat offender record keeping system and administrative process, similar to the system used to track repeat violators of fish and game statutes.
- Define all-terrain utility vehicles (Gators, Mules, Rhinos) and provide clarification on their use, including user permits for use on designated public property.
- Provide for all-terrain vehicle use to mow or maintain a designated trail system as defined by this chapter.

Strengthen penalties for illegal all-terrain vehicle operation from \$20 to \$50 for safety equipment requirements, \$100 plus cost for illegal operation.

Commissioner Garst asked about the procedure for developing the final list of legislative initiatives. Director Vonk reviewed that the process is that staff develops concepts and proposals of things they believe are important. Those go over to the Governor's Office and he views the vast array of legislative initiatives and provides feedback about which things we should move forward with.

Commissioner Garst remarked that the NRC's role is to represent the citizens and voice of the citizens. She proposed having a motion by the NRC to put the commission on record as supporting the initiatives, but in particular, to vigorously support increasing the nonresident licenses from 6,000 to 12,000. She said it seems there is an organized voice against that legislation and she proposed that the commission be organized in support of this legislative initiative. She said the commission should encourage the legislature get it passed for the sake of the citizens of Iowa

Commissioner Duncan stated that the commission does support the department's legislative initiatives in its entirety.

Commissioner Garst said the commission should hit on the most important legislation to get more impact. She added that emphasis should be placed on the out-of-state hunting licenses tied to more public hunting access acquisition in order to focus visibility of the issue. Ms. Garst said there is no public awareness of this issue and there are lobbyists in the legislature fighting. She asked that the power of the commission be used to get a higher visibility for this issue. She suggested that the commission go before the Natural Resources Committees in the legislature, adding that this issue has been defeated in the past because of the special interest groups, but as representatives of the citizens this needs to get approved.

Commissioner Schneider suggested holding a telephone conversation to talk about legislative issues so that the commission goes as a united front to the legislative breakfast on January 18.

Linda Hanson suggested that the night before the legislative breakfast, a briefing on all the legislative issues be held.

Commissioner Garst stated that she hoped the commission would vote to show we all feel this way about the nonresident license issue.

Director Vonk pointed out that staff will give notice to folks that we clearly know are opposed to what we are proposing because they might want to speak to you as part of a public meeting.

NEXT MEETING DATES

The next meeting will on January 18 following the legislative breakfast in Des Moines.

ADJOURNMENT

Motion was made by Commissioner Duncan to adjourn December 8, 2005 NRC meeting. Seconded by Commissioner Francisco. Meeting adjourned at 11:15 a.m..

Jeffrey R. Vonk, Director

Janice Marcantonio, Chairperson

Randy Duncan, Secretary

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